

ASSEMBLY BILL

No. 1306

Introduced by Assembly Member Huff

February 23, 2007

An act to amend Section 7102 of the Revenue and Taxation Code, relating to transportation.

LEGISLATIVE COUNSEL'S DIGEST

AB 1306, as introduced, Huff. Sales taxes on gasoline.

Existing law, pursuant to Proposition 116 of 1990, an initiative act, creates the Public Transportation Account as a trust fund in the State Transportation Fund, and provides that funds shall be deposited in the account from a specified portion of the sales taxes on gasoline and diesel fuel, and that the moneys in the account shall be available for expenditure only for transportation planning and mass transportation purposes. These provisions may be amended by the Legislature only by a $\frac{2}{3}$ vote of both houses of the Legislature and only if the amending statute is consistent with, and furthers the purposes of, the initiative act.

Existing law requires the remaining state revenues from sales taxes on gasoline to be deposited in the General Fund. Article XIX B of the California Constitution, commencing with the 2003–04 fiscal year, requires the portion of sales taxes on gasoline that are deposited in the General Fund to be transferred to the Transportation Investment Fund for allocation to various transportation purposes.

This bill would reduce the portion of gasoline sales tax revenues that are deposited in the Public Transportation Account by eliminating what is commonly known as the “spillover” formula. The bill would thereby increase the revenues from the sales tax on gasoline that are deposited in the General Fund, and by operation of Article XIX B of the

Constitution, would require those revenues to be subsequently transferred to the Transportation Investment Fund.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) California currently has the most congested roads in the
4 nation, and those roads are in a major state of disrepair. Drivers
5 spend \$20.7 billion in extra fuel each year and spend 500,000 hours
6 stuck in traffic every day because of overcrowded roads.

7 (b) In 2002, 69 percent of California voters approved Proposition
8 42, which adopted Article XIX B of the California Constitution,
9 in order to ensure that existing taxes paid on gasoline sales were
10 dedicated to improving roads, reducing congestion, and enhancing
11 transportation safety.

12 (c) In 2006, California voters reaffirmed their commitment to
13 Proposition 42 by overwhelmingly approving Proposition 1A,
14 which closed a legal loophole, in order to prevent taxes on gasoline
15 sales from being diverted from transportation projects to other
16 purposes. Proposition 1A was approved by 77 percent of California
17 voters.

18 (d) Current law includes another loophole that results in some
19 sales taxes on gasoline not being included in the calculation of
20 revenues subject to Article XIX B of the Constitution. These funds,
21 known as “spillover” funds, have been raided in recent years rather
22 than being used for their intended purpose to fund vital public
23 transportation projects.

24 SEC. 2. Section 7102 of the Revenue and Taxation Code is
25 amended to read:

26 7102. The money in the fund shall, upon order of the Controller,
27 be drawn therefrom for refunds under this part, credits or refunds
28 pursuant to Section 60202, and refunds pursuant to Section 1793.25
29 of the Civil Code, or be transferred in the following manner:

30 (a) (1) ~~All revenues, less refunds, derived under this part at the~~
31 ~~4 $\frac{3}{4}$ percent rate, including the imposition of sales and use taxes~~
32 ~~with respect to the sale, storage, use, or other consumption of motor~~
33 ~~vehicle fuel which would not have been received if the sales and~~

1 use tax rate had been 5 percent and if motor vehicle fuel, as defined
2 for purposes of the Motor Vehicle Fuel License Tax Law (Part 2
3 (commencing with Section 7301)), had been exempt from sales
4 and use taxes, shall be estimated by the State Board of
5 Equalization, with the concurrence of the Department of Finance,
6 and shall be transferred quarterly to the Public Transportation
7 Account, a trust fund in the State Transportation Fund, except as
8 modified as follows:

9 (A) For the 2001–02 fiscal year, those transfers may not be more
10 than eighty-one million dollars (\$81,000,000) plus one-half of the
11 amount computed pursuant to this paragraph that exceeds
12 eighty-one million dollars (\$81,000,000).

13 (B) For the 2002–03 fiscal year, those transfers may not be more
14 than thirty-seven million dollars (\$37,000,000) plus one-half of
15 the amount computed pursuant to this paragraph that exceeds
16 thirty-seven million dollars (\$37,000,000).

17 (C) For the 2003–04 fiscal year, no transfers shall be made
18 pursuant to this paragraph, except that if the amount to be otherwise
19 transferred pursuant to this paragraph is in excess of eighty-seven
20 million four hundred fifty thousand dollars (\$87,450,000), then
21 the amount of that excess shall be transferred.

22 (D) For the 2004–05 fiscal year, no transfers shall be made
23 pursuant to this paragraph, and of the amount that would otherwise
24 have been transferred, one hundred forty million dollars
25 (\$140,000,000) shall instead be transferred to the Traffic
26 Congestion Relief Fund as partial repayment of amounts owed by
27 the General Fund pursuant to Item 2600-011-3007 of the Budget
28 Act of 2002 (Chapter 379 of the Statutes of 2002).

29 (E) For the 2005–06 fiscal year, no transfers shall be made
30 pursuant to this paragraph.

31 (F) For the 2006–07 fiscal year, the revenues estimated pursuant
32 to this paragraph shall, notwithstanding any other provision of this
33 paragraph or any other provision of law, be transferred and
34 allocated as follows:

35 (i) The first two hundred million dollars (\$200,000,000) shall
36 be transferred to the Transportation Deferred Investment Fund as
37 partial repayment of the amounts owed by the General Fund to
38 that fund pursuant to Section 7106.

39 (ii) The next one hundred twenty-five million dollars
40 (\$125,000,000) shall be transferred to the Bay Area Toll Account

1 ~~for expenditure pursuant to Section 188.6 of the Streets and~~
2 ~~Highways Code.~~

3 ~~(iii) Of the remaining revenues, thirty-three million dollars~~
4 ~~(\$33,000,000) shall be transferred to the Public Transportation~~
5 ~~Account to support appropriations from that account in the Budget~~
6 ~~Act of 2006.~~

7 ~~(iv) The remaining revenues shall be transferred to the Public~~
8 ~~Transportation Account for allocation as follows:~~

9 ~~(I) Twenty percent to the Department of Transportation for~~
10 ~~purposes of Section 99315 of the Public Utilities Code.~~

11 ~~(II) Forty percent to the Controller, for allocation pursuant to~~
12 ~~Section 99314 of the Public Utilities Code.~~

13 ~~(III) Forty percent to the Controller, for allocation pursuant to~~
14 ~~Section 99313 of the Public Utilities Code.~~

15 ~~(2) All revenues, less refunds, derived under this part at the~~
16 ~~4³/₄-percent rate, resulting from increasing, after December 31,~~
17 ~~1989, the rate of tax imposed pursuant to the Motor Vehicle Fuel~~
18 ~~License Tax Law on motor vehicle fuel, as defined for purposes~~
19 ~~of that law, shall be transferred quarterly to the Public~~
20 ~~Transportation Account, a trust fund in the State Transportation~~
21 ~~Fund.~~

22 ~~(3)~~

23 ~~(2) All revenues, less refunds, derived under this part at the~~
24 ~~4³/₄-percent rate from the imposition of sales and use taxes on fuel,~~
25 ~~as defined for purposes of the Use Fuel Tax Law (Part 3~~
26 ~~(commencing with Section 8601)) and the Diesel Fuel Tax Law~~
27 ~~(Part 31 (commencing with Section 60001)), shall be estimated~~
28 ~~by the State Board of Equalization, with the concurrence of the~~
29 ~~Department of Finance, and shall be transferred quarterly to the~~
30 ~~Public Transportation Account, a trust fund in the State~~
31 ~~Transportation Fund.~~

32 ~~(4)~~

33 ~~(3) All revenues, less refunds, derived under this part from the~~
34 ~~taxes imposed pursuant to Sections 6051.2 and 6201.2 shall be~~
35 ~~transferred to the Sales Tax Account of the Local Revenue Fund~~
36 ~~for allocation to cities and counties as prescribed by statute.~~

37 ~~(5)~~

38 ~~(4) All revenues, less refunds, derived from the taxes imposed~~
39 ~~pursuant to Section 35 of Article XIII of the California Constitution~~
40 ~~shall be transferred to the Public Safety Account in the Local Public~~

1 Safety Fund created in Section 30051 of the Government Code
2 for allocation to counties as prescribed by statute.

3 (b) The balance shall be transferred to the General Fund.

4 (c) The estimates required by subdivision (a) shall be based on
5 taxable transactions occurring during a calendar year, and the
6 transfers required by subdivision (a) shall be made during the fiscal
7 year that commences during that same calendar year. Transfers
8 required by paragraphs (1); *and* (2); ~~and (3)~~ of subdivision (a) shall
9 be estimated by the State Board of Equalization, with the
10 concurrence of the Department of Finance, and shall be made
11 quarterly.

12 (d) Notwithstanding the designation of the Public Transportation
13 Account as a trust fund pursuant to subdivision (a), the Controller
14 may use the Public Transportation Account for loans to the General
15 Fund as provided in Sections 16310 and 16381 of the Government
16 Code. The loans shall be repaid with interest from the General
17 Fund at the Pooled Money Investment Account rate.

18 (e) The Legislature may amend this section, by statute passed
19 in each house of the Legislature by rollcall vote entered in the
20 journal, two-thirds of the membership concurring, if the statute is
21 consistent with, and furthers the purposes of this section.